

FREDERICK COUNTY PLANNING COMMISSION
MEETING OF August 12, 2009
9:30 a.m.

Members Present: Audrey Wolfe, Chairperson; Catherine Forrence, Vice-Chair; Robert White, Secretary; Joe Brown, Richard Floyd, and John McClurkin.

Kai Hagen Absent

Staff Present: Betsy Smith, Director of DPDR Engineering Stephen O'Philips, Principal Planner; Kathy Mitchell, Assistant County Attorney; Nikki Martin, Planner; Ron Burns, Traffic Engineer; Bryon Mitchell, Manager of Life Safety; and Lori Barlet-Chapman, Legal Associate III.

1. MINUTES:

Ms. Forrence made a motion to approve the Minutes as written from July 8th FcPc Meeting. 2nd Mr. Brown.

Yea 4 Nay 0 (Hagen Absent) (White & Floyd Abstained)

The July 15, 2009 1:00 Minutes were pulled for revisions to be made.

2. PLANNING COMMISSION COMMENTS:

Ms. Forrence and Mr. Brown spoke of the Emmitsburg bypass in regard to the BOCC meeting of August 11, 2009 discussing the update of the Comprehensive Plan. Mr. White spoke of his concerns with the timeline of the Comprehensive Plan.

3. AGENCY COMMENTS/AGENDA BRIEFING:

Ms. Smith stated that the applicant for Preston, Section 2 and Mains Heights, requested to be taken off the agenda and are requesting a sixty (60) day continuance. They will be heard on the October agenda. Ms. Smith also stated that this announcement serves as public notice of the re-scheduled time and the site will not be re-posted.

Ms. Smith also stated that an e-mail was received from Mr. Rand Weinberg, Esquire, representing the applicant for Wedgewood Business Park, Lot 26 (amendment) and Wedgewood Business Park, Lot 26 Site Plan, requesting that these agenda items be continued for thirty (30) days.

Decision: Mr. White made a motion for a 30- day continuance for Wedgewood Business Park Lot 26 (amendment) and Wedgewood Business Park Lot 26 Site Plan. Mr. Brown 2nd.

4. **ENTRANCE SPACING MODIFICATION**

a.

Bear Den Farm Lot 1(remainder) and Lots 2-5 – Requesting two modifications of the entrance spacing policy. Located on the southwest intersection of Woodsboro Pike (Route 194), west of Baker Road. Zoned: Agricultural (AG) and Residential (R-1), Walkersville Planning Region. Tax Map 34 / Parcel 73, File# M-2853, AP# 9489 and #9490, Nikki Martin

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based upon the discussions in this report, and the conditions listed below, Staff finds that the subdivision application meets and/or will meet all applicable Zoning, APFO, and FRO requirements once all Staff and agency comments and conditions are complied with. However, this application does not meet Subdivision requirements.

Staff cannot support either modification request, as a safe, practical, alternative entrance location exists on a lower classified road. The Applicant has submitted a sketch showing the alternative access as well as panhandles to serve the proposed lots. Per table 1 of the entrance spacing policy, the entrance location on Baker Road appears to meet spacing requirements for Staff approval with justification.

Recommendation:

The Applicant is requesting that the FcPc decide whether to modify the entrance spacing policy for M2969 (9489 and 9490). Staff recommends denial of this request for the reasons discussed in this report.

Applicant Presentation:

Mr. Bill Orsinger of Fox & Associates, representing the applicant, presented the proposal. Mr. Darrell Hummer, Applicant, spoke of the history of his property.

Public Comment:

N/A

Rebuttal:

N/A

Decision: Mr. White made a motion for denial in accordance with the Staff's Recommendation. 2nd Ms. Forrence.

Yea 6 Nay 0 (Hagen Absent)

5. PRELIMINARY PLAT

a)

Horan Property – (New Application) Old Application heard at the December 2008 & March 2009 Agendas. Requesting approval for new section of public road to serve minor subdivision for five lots on 45 acres, located at the terminus of Winmoor Drive in the Knolls of Windsor Subdivision. Zoned: Residential (R-1). Urbana Planning Region. Tax Map 106 / Parcel 6. File# S1154, AP# 9613 & 9614 (FRO), Stephen O'Philips

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

The Applicant proposes an extension of a public street system to serve five new lots. The Applicant is requesting approvals for the following:

- ☐ Preliminary Plan (AP # 9613)
- ☐ FRO (AP# 9614)

The Staff finds that:

- 1) This application is not subject to the APFO requirements because it is a minor residential subdivision.
- 2) The concept plan for the ultimate build-out shows a coherent design for future development.
- 3) The proposed 600' public road extension is efficiently design for Phase I development.
- 4) Based upon the discussion in the report, the Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or mitigated. With certain conditions of approval added, the Staff offers no objection to approval.

Recommendation:

Should the Planning Commission conditionally approve this Preliminary Plat (AP# 9613) for the proposed church, the motion for approval should include the following item:

- FRO Approval (AP # 9614)

The Staff would recommend that the following item be added as conditions of approval:

- 1) Comply with Agency comments as this project moves through the development process.

Applicant Presentation:

Mr. Zolton Hagy of Buckeye Development LLC, and Mr. Chris Smariga of Harris, Smariga & Associates, Inc., representing the applicant presented the proposal.

Public Comment:

N/A

Rebuttal:

N/A

Decision: Mr. White made a motion for conditional approval in accordance with Staff's Findings, Recommendations, and Conditions excluding the verbiage in the Recommendation "for the proposed church". 2nd Mr. Brown

Yea 5 Nay 1 (Floyd Opposed) (Hagen Absent)

- b) [*Wedgewood Business Park, Lot 26 \(amendment\)*](#) - Requesting approval of a Phase III Preliminary Plan Amendment proposing the addition of a 9.337 acres to the existing 2.009 acre Wedgewood Lot 26. The 9.337 acre parcel was joined to Lot 26 from the adjacent Russell Property via an addition plat which was approved on June 12, 2008. Located along International Boulevard north of English Muffin Way. Zoned: Limited Industrial (LI), Adamstown Planning Region. Tax Map 86 / Parcel 8. File# SP05-15, AP# 9442, Tolson DeSa

This agenda item was continued for 30 days

6. SITE PLAN

- a) [*Wedgewood Business Park, Lot 26*](#) - The Applicant is requesting approval of 122,480 square feet of office/warehouse space occupying three (3) buildings on a 9.337 acre site. The 9.337 acre site is the subject of the Lot 26 Phase III Amendment proposal in order to join this parcel to an existing 2.009 acre parcel known as Lot 26. Located along International Boulevard north of English Muffin Way. Zoned: Limited Industrial (LI), Adamstown Planning Region. Tax Map 86 / Parcel 8. File# SP91-13w, AP# 9001, Tolson DeSa

This agenda item was continued for 30 days

- b) [*Preston, Section 2 and Mains Heights*](#) - Requesting approval of joint application for age-restricted community for 146 lots on 47.4 acres, located

on Broad Branch Way and west of Mains Lane. Zoned R-3 Residential, in the New Market Planning Region. Tax Map 78 / Parcel 243 and 79 / 81 respectively. File # S-1010, A/P# 9230, Stephen O'Philips.

This agenda item was continued for 60 days

7. MISCELLANEOUS REQUEST

- a) Main's Heights - Requesting modification of a condition of approval. Altered design with clubhouse for 59-lot subdivision (30 single-family and 29 townhouses) on 16.7 acres. Zoned: R-3 Residential, located west side Mains Lane, north side Bartonsville Road. Tax Map 78 / Parcels 243 & 681. File# S-002, A/P# 4331, Stephen O'Philips

This agenda item was continued for 60 days

8. SITE PLAN

- a) Mountain View Community Church - Requesting re-approval for church of 30,700 sq. ft. on 20.5 acres. Located north side MD 80, and west side I-270. Zoned: Agriculture (AG). Urbana Planning Region. Tax Map 96 / Parcel 7. File # SP 02-13, A/P#'s 9607 & 9608, Stephen O'Philips

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

The Applicant proposes to develop Tax Map 96/Parcel 7 as a 30,700 square foot church. The Applicant is requesting:

- ☐ Revised Site Plan Approval (AP # 9607)
- ☐ Revise APFO Letter of Understanding Approval. (AP # 9608)

The Staff finds that:

- 1) The site plan approval can only be given for a two-year period. If approved on August 12, 2009, the expiration date for the site plan would be August 12, 2011.
- 2) However, the approval period is somewhat moot because the site plan is already vested with the construction of a concrete footer. This approval of this Revised Site Plan will allow the Applicant to submit a building permit for 30,700 sq. ft.
- 3) The Revised LOU is now consistent with the Revised Site Plan value of 30,700 sq. ft.
- 4) Based upon the discussion in the report, the Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or

mitigated. With certain conditions of approval added, the Staff offers no objection to approval.

Recommendation:

Should the Planning Commission conditionally approve this Site Plan SP 02-13 (AP# 9607) for the proposed church, the motion for approval should include the following items:

- Re-approval of APFO
- Approval of the Revised APFO Letter of Understanding

The Staff would recommend that the following item be added as conditions of approval:

- 1) Comply with Agency comments as this project moves through the development process.

The text highlighted in grey show the changes from the 2007 Staff Report to the August 2009 Staff Report.

Applicant Presentation:

Mr. Lee Miller of Daft McCune Walker Inc., representing the Applicant, presented the proposal.

Public Comment:

N/A

Rebuttal:

N/A

Decision: Mr. White made a motion for Conditional approval in accordance with Staff's Findings, Recommendations, with the exception SP 06-17 is revised to SP 02-13. Also to include the re-approval of APFO and approval of the Revised APFO Letter of Understanding. 2nd Mr. Brown.

Yea 5 Nay 1 (Forrence Opposed) (Hagen Absent)

- b) [Toms Creek Church](#) - Requesting approval to rebuild a larger Fellowship Hall of 6,880 sq. ft. Zoned Agriculture (AG) Situated on 0.97 acres on the north side of Simmons Road and east side Toms Creek Church Road in the Thurmont Planning Region. Tax Map 15 / Parcel 47. File # SP08-30, A/P#'s 8851 (SP), 9451 (APFO) & 8853 (FRO), Stephen O'Philips

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

The Applicant proposes to demolish and rebuild a Fellowship Hall (6,880 sq. ft.) on develop Tax Map 15/Parcels 47 and 48. Additional parking, landscaping and lighting improvements are also requested. The Applicant is requesting:

- ❑ Site Plan Approval (AP # 8851)
- ❑ APFO Approval (AP # 9451)
- ❑ FRO Approval (AP # 8853)
- ❑ Loading space Modification (AP # 8851)

The Staff finds that:

- 1) The site plan approval can only be given for a two-year period. If approved on August 12, 2009, the expiration date for the site plan would be August 12, 2011.
- 2) The APFO approval can be granted for as long as the site plan remains valid, but for no more than three years, based on the Agency approval of the traffic analysis.
- 3) Significant Health Department issues remain regarding the septic capacity. Section 1-19-3.300.1 requires that the Health Department shall certify as to the adequacy of the septic system:

§ 1-19-3.300.1. SPECIFIC STANDARDS AND CONDITIONS.

The following specific standards will be met in site plans, in addition to other requirements of this chapter.

(A) Lighting. Lighting emitting objectionable glare observable from surrounding properties or streets will be shielded.

(B) Public utilities. The Health Department shall certify that the proposed water and sewage facilities are adequate to service the proposed development.

While the Health Department has offered “Conditional Approval”, it appears that the Health Department cannot certify that the septic is adequate. The Applicant has not provided data to fully address Health Department concerns. However, a monitoring water meter has been installed, and additional data (over a several-month period) must be submitted before the Health Dept. can re-assess the septic limitations.

- 4) Health Department has the ability to deny building permit applications based on septic concerns.
- 5) Landscape plantings have been designed in such a way as to preserve the views of this historic church, while simultaneously providing some visual separation from the public roads and the existing parking lot. Minor drafting corrections to landscaping, lighting, and parking lot design remain.
- 6) The loading space modification is consistent with other institutional uses.
- 7) Given the existing nature of the buildings, the 7% cross-slope and the historic

site, and the fact that the existing road grades “tie” the parking lot grades, the handicapped parking arrangement (located directly off of Simmons Road) is the most appropriate location to provide handicapped accessibility to the front door of the sanctuary.

- 8) Based upon the discussion in the report, the Staff finds that the application does not meet §1-19-3.300.1, but that all other applicable Zoning, Subdivision, APFO and FRO requirements are or will have been met once all Staff and Agency comments and conditions are met or mitigated.

Recommendation:

The Staff recommends denial of this request.

Should the Planning Commission find that Health Department concerns have been met through the establishment of the water monitoring (or that sufficient legal authority exists for the Health Department to cause the Applicant to obtain sufficient septic capacity) and grant conditional approval of this Site Plan SP 08-30 (AP# 8851) for the proposed rebuilding of the Fellowship Hall, the motion for approval should include the following items:

- Approval of the APFO (AP # 9451)
- Approval of the FRO (AP # 8853)
- Approval of the Loading Space Modification (AP # 8851)

And the Staff would recommend that the following item be added as conditions of approval:

- 1) Comply with Agency comments as this project moves through the development process, including but not limited to:

- a) Minor HC space re-designs;
- b) Minor parking lot changes;
- c) Landscaping corrections; and
- d) Lighting corrections.

- 2) Comply with Health Department requirements prior to Site Plan signature:

- a) Providing easement for septic system on neighboring property for Health Dept review. This agreement may need to be revised and rerecorded if an adequate space is not available.
- b) Obtaining a new or revised Groundwater Appropriations Permit.
- c) Septic tank size must be increased. A new 1600 gallon three-compartment grease-trap must be added, as per new Plumbing Code regulations. Additional sand-mounds must be added to increase capacity.
- d) Applicant must submit water-meter readings and septic system capacity analyses.

Applicant Presentation:

Mr. Chris Gauss, R.F. Gauss & Assoc., Inc., Sam Wivell, and Pastor Judy Kelly representing the Applicant, presented the proposal.

Public Comment:

Mr. Andy Hood, church member, spoke in regard to the septic system.

Rebuttal:

N/A

Decision: Mr. White made a motion for up to a 180- day continuance to resolve the Health Department issues. 2nd Ms. Forrence.

Yea 6 Nay 0 (Hagen Absent)

9. EXTENSION REQUEST

- a) [Russell Property](#) - Requesting Preliminary Plat extension approval of 6 industrial lots containing 11 warehouse/office buildings on 45.5 acres with 28.9 acre open space. Zoned: Limited Industrial (LI) and Planned Unit Development (PUD). Located West side Rt. 85, ¼ mile south of Executive Way. Tax Map 86 / Parcels 175 and 100. File# S-1140 & SP04-11, AP# 9525, Stephen O'Philips

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

The Staff finds that:

- 1) The Applicant submitted a Preliminary Plat extension request in a timely manner under § 1-19-71(R) (3) under the Subdivision Ordinance.
- 2) The Applicant failed to submit any kind of APF material for review for a new APF approval.
- 3) The Preliminary Plat cannot be extended without a concurrent APFO approval.
- 4) There is no ability for the Frederick County Planning commission to extend this request to extend the Preliminary Plat approval.

Recommendation:

Staff recommends denial of the request.

Applicant Presentation:

N/A

Public Comment:

N/A

Rebuttal:

N/A

Decision: Mr. White made a motion for denial in accordance with the Staff's Recommendation. 2nd Ms. Forrence.

Yea 6 Nay 0 (Hagen Absent)

Meeting adjourned at 11:28 p.m.

Respectfully Submitted,

Audrey Wolfe, Chairperson